UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

WINN-DIXIE STORES, INC. and BI-LO

X

No. 15-cv-6480

HOLDINGS, LLC.

:

Plaintiffs,

Related Action:

Master File No. 06-cv-0620

v.

•

EASTERN MUSHROOM MARKETING COOPERATIVE, INC., et al.,

Defendants

: X

PLAINTIFFS' RESPONSE IN OPPOSITION TO DEFENDANTS' MOTION FOR LEAVE TO FILE SUR-REPLY AND PLAINTIFFS' CROSS MOTION, IN THE ALTERNATIVE, FOR LEAVE TO FILE A RESPONSE TO DEFENDANTS' PROPOSED SUR-REPLY

Defendants' Motion for Leave to File Sur-Reply should be denied because (1) sur-replies are disfavored, (2) the proposed sur-reply merely repeats arguments in Defendants' Response (Dkt. 245), and (3) the proposed sur-reply is improper because it raises an argument under Rule 56(d) which is premature as Plaintiffs have not yet responded to Defendants' Motion for Summary Judgment Against Bi-Lo. In the alternative, if this Court grants Defendants leave to file the proposed sur-reply, Plaintiffs cross move for leave to file a brief response to the proposed sur-reply which is attached hereto as Exhibit 1.

Dated: May 15, 2020

Respectfully submitted,

/s/ Patrick J. Ahern

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